



HOUSE COMMITTEE ON GOVERNEMENT REFORM

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The Honorable Tina Wildberger, Vice Chair

HOUSE COMMITTEE ON LEGISLATIVE MANAGEMENT

The Honorable Dale T. Kobayashi, Chair
The Honorable John M. Mizuno, Vice Chair

H.B. No. 2420, RELATING TO AUDITING PRACTICES

Hearing: Friday, February 4, 2022, 9:30 a.m.

The Office of the Auditor **opposes** H.B. No. 2420, relating to auditing practices. The measure proposes amending Chapter 23, Hawai‘i Revised Statutes (HRS), to insert two new sections containing requirements for draft audit reports and obtaining testimonial evidence.

One proposed section would require the Auditor to “provide an audited agency with a draft audit report that includes the auditor’s findings and recommendations at least thirty days before the exit interview is conducted with the audited agency.”

We note that nothing in *Government Auditing Standards*¹ dictates how much time auditors must give to auditees to review draft reports. It is therefore unclear what auditing practices and standards the bill is drawing on when imposing this new standard. In any case, our Office accommodates reasonable requests for extensions of time, so it is not clear what need the proposed requirement would be meeting.

It is clear, however, that the new requirement would add an element of inflexibility and delay to an already complex process without any corresponding benefit. In other words, this new requirement would unnecessarily compress the timeframe for audit planning, fieldwork, analysis, and drafting reports. It would also delay reporting time-sensitive information to the Legislature.

As for the requirement that we include recommendations in the draft report provided to agencies, we note that this is not required under *Government Auditing Standards*. While the *Standards* require “obtaining the views of responsible officials” with regard to a draft report, the “application guidance” for this requirement states that “Providing a draft report with findings for

¹ The Comptroller General of the United States, *Government Auditing Standards, 2018 Revision* (the “Yellow Book”).

review and comment by responsible officials of the audited entity and others helps the auditors develop a report that is fair, complete, and objective.”²

In accord with the *Standards*’ application guidance, the drafts we send to agencies for review contain our complete findings, including the causes of deficiencies and other findings that agencies need to correct. Agencies should focus their reviews on the evidence-based and objective findings and conclusions in the draft report, and on whether the agency has any concerns about their accuracy—not on our recommendations for how the findings might be addressed. This reflects an ordinary and efficient division of labor.

Agencies are likely to have knowledge about facts within the agency. But if agencies already had our experience regarding structured and fact-based recommendations for improving their performance, they would likely not have a need for the kind of performance-improving recommendations we provide. In addition, they are free to comment on the recommendations when, at a later stage, we evaluate whether they have implemented our recommendations and, if not, why not.

H.B. 2420 also proposes a section on testimonial evidence and recordings that would add the following requirements to Chapter 23, HRS:

The auditor shall follow best auditing practices and standards when obtaining testimonial evidence; provided that if the circumstances necessitate recording an interview with an individual the auditor shall:

- (1) Provide advance written notice to the individual and the individual’s agency that the interview will be recorded;
- (2) Provide the individual and the individual’s agency with a copy of the recorded interview within five business days after the interview; and
- (3) Provide the individual or agency with an opportunity to record the interview.

We note, once again, that it is not clear which “best auditing practices and standards” the bill is referring to regarding “obtaining testimonial evidence.” *Government Auditing Standards* state, “Testimonial evidence is obtained through inquiries, interviews, focus groups, public forums, or questionnaires.”³ The *Standards* do not prohibit or discourage recording of interviews.

We make audio recordings of interviews as a standard practice to ensure that the testimonial evidence we report is accurate and in context. Among other things, the recordings allow us to

² *Government Auditing Standards, 2018 Revision, 9.54* (emphasis added). The *Standards* note that its “requirements are followed immediately by application guidance that relates directly to the preceding requirements.” *Standards, 1.28; id., 2.09* (“The application guidance provides further explanation of the requirements and guidance for applying them. In particular, it may explain more precisely what a requirement means or is intended to address[.]”)

³ *Government Auditing Standards, 2018 Revision, 8.104.*

check the accuracy of our notes taken during interviews. That not only serves the auditing goal of rigorous accuracy, it also saves agency personnel valuable time and energy. The recordings obviate the need for additional follow-up interviews of agency personnel to confirm the accuracy of our interview notes. It also gives agency interviewees the assurance that any quotations are accurate and in-context.

We always inform auditees before we start an audio recording, assuring them that the recordings will be part of our working papers and are therefore confidential. This assurance allows interviewees to be more open and frank in their answers and in the information they provide. That serves important goals in performance auditing. Agency employees will not readily report issues, problems, or dysfunctions within their agencies—much less fraud, waste, and abuse—if they fear adverse consequences in their employment for doing so.

Requiring interview recordings to be provided to anyone outside the Office of the Auditor, including the audited agency, might be well-intended but it is probably ill-considered. It will likely have the opposite of the result intended and discourage open and frank answers. The reason for that is simple. Only the recordings made by the Office of the Auditor are unquestionably protected from disclosure by our comprehensive confidentiality provision, HRS § 23-9.5. Providing our recordings to the audited agency or individual employees may make the recordings public records, subject to disclosure under the Uniform Information Practices Act.

We have similar concerns about expressly allowing individuals or agencies to record interviews themselves, although we do not prohibit that. We caution that only the recordings made by the Office of the Auditor are protected by our confidentiality provision. Recordings made by the audited agency or individual employees may be public records, subject to disclosure under the Uniform Information Practices Act.

Thank you for considering our testimony in **opposition** to H.B. No. 2420.